

**Ronald H. Lewis, M.D., Chair**  
**Panel A**

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

FOAD ELAHI, M.D.,

Physician's and Surgeon's Certificate  
No. A 106279

Respondent.

Case No. 800-2017-030144

OAH No. 2017090411

**PROPOSED DECISION**

Administrative Law Judge Jill Schlichtmann, State of California, Office of Administrative Hearings, heard this matter on December 7, 2017, in Oakland, California.

Deputy Attorney General Carolyne Evans represented complainant Kimberly Kirchmeyer, Executive Director, Medical Board of California, Department of Consumer Affairs.

Jeffrey Kravitz, Attorney at Law, represented respondent Foad Elahi, M.D., who was present throughout the hearing.

The record closed and the matter was submitted for decision on December 7, 2017.

**FACTUAL FINDINGS**

1. On December 13, 2008, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. A 106279 to Foad Elahi, M.D. (respondent). The license has been active at all times relevant here and is scheduled to expire if not renewed on July 31, 2018.

2. On August 14, 2017, complainant Kimberly Kirchmeyer, acting in her official capacity as Executive Director of the Board, issued an accusation against respondent. The accusation alleges that respondent's California license is subject to discipline because of action taken by the Iowa Board of Medicine (Iowa Board).

### *Respondent's Background*

3. Respondent was raised and attended medical school in Iran, graduating in 1990 from the University of Shahid Beheshti Medical Sciences. He completed a residency in general surgery from 1989 to 1990, and a residency in neurosurgery from 1990 to 1995, at the same university. He served as an assistant professor of neurosurgery at The Mostapha Hospital in Tehran from 1995 to 1997, and later as a consulting neurosurgeon at the facility. From 1998 to 2000, respondent worked as a consultant neurosurgeon in Dubai, before returning to Iran to work until 2004.

4. From 2004 to 2005, respondent was a research fellow in skull base surgery at the North Shore University Hospital in New York. He attended a cerebrovascular neurosurgical fellowship from 2005 to 2006 at the University of Washington. From 2006 to 2007, respondent attended a general surgery residency at Albert Einstein University in New York. From 2007 to 2010, respondent completed a residency at New York Medical College in physical medicine and rehabilitation, and served as the chief resident from 2009 to 2010. Respondent attended a pain medicine fellowship in the Department of Anesthesiology at the John Stroger Hospital in Chicago from 2010 to 2011.

5. From July 1, 2011, until December 31, 2014, respondent served as an associate, then an assistant professor at the University of Iowa Hospitals and Clinics.

6. Respondent currently has a solo practice in Manteca, California. He specializes in interventional pain management, using nerve blocks, epidural injections, radiofrequency nerve ablation and nerve stimulators to treat chronic pain patients. Respondent estimates that no more than 10 percent of his patients take opioid medication. His goal is to treat chronic pain through interventional methods and to wean patients from opioid medications. From June 2015 to the present, respondent has been a staff member at Doctors Hospital in Manteca, California. He was the medical director at Healthsouth Rehabilitation Hospital of Modesto until recently.

### *Action by the Iowa Board*

7. On October 28, 2016, the Iowa Board filed charges against respondent alleging that he engaged in sexual harassment and/or unethical or unprofessional conduct when he engaged in unwanted conduct of a sexual nature toward a female coworker between March and October 2014. The conduct included making unwanted sexual comments and unwanted hugging, touching, kissing and fondling of the coworker.

8. On April 14, 2017, the Iowa Board entered into a settlement agreement with respondent (Iowa Agreement). The Iowa Agreement cited respondent for violating appropriate professional boundaries in his interactions with the female coworker. Respondent was warned that engaging in such conduct in the future could result in further disciplinary action against his license. Respondent was assessed a civil penalty of \$2,500 and ordered to complete a Board-approved professional boundaries program within 90 days.

### *Respondent's Evidence*

9. Respondent acknowledges that he acted inappropriately toward a female coworker. He made inappropriate jokes, hugged her, and kissed her on the cheek. Respondent does not recall fondling her.

10. In June 2016, respondent underwent a full psychological evaluation at the Professional Renewal Center in Lawrence, Kansas. The report, which found him fit to practice, was sent directly to the Iowa Board. Following the Board's review of respondent's psychiatric evaluation, it entered into the Iowa Agreement with him.

11. On April 6, 7 and 8, 2017, respondent attended the professional boundaries program offered by the University of California, San Diego School of Medicine Physician Assessment and Clinical Education Program (PACE). Respondent received 39.50 credits for attending the course, which satisfied the requirement in the Iowa Agreement.

The PACE Professional Boundaries Program Course Director reports that respondent successfully completed the course and displayed personal and professional responsibility growth and development by actively participating in all aspects of the program. He met all objectives satisfactorily. The Course Director recommended that respondent: 1) implement and adhere to the Boundary Maintenance and Personal Prevention Plan developed in consultation with faculty; 2) continue to use the course text as a resource for ongoing support; 3) fully participate in the PACE follow-up assessments to assist in maintaining progress; and 4) seek out and utilize support from colleagues and peers to identify and nullify personal risk factors and triggers.

Respondent found the presenters to be very knowledgeable. He now fully understands that jokes, hugging and kissing are not acceptable in the workplace, and that even subtle behavior can be misinterpreted. Respondent benefited from the course, it especially helped him understand cultural differences. He now interacts very differently with staff members. Respondent has not participated in follow-up assessments to date.

12. The woman who filed the complaint against respondent at the University of Iowa was the secretary for the department. Respondent deeply regrets offending her and accepts full responsibility for his misconduct. He has learned from this experience and from the professional boundaries course.

13. Respondent has paid the civil penalty assessed by the Iowa Board.

14. Respondent has not been disciplined or investigated for misconduct before or after this incident. His performance evaluations from the University of Iowa from 2011 to 2013 were excellent. On May 14, 2013, respondent was offered a faculty appointment as a clinical assistant professor beginning July, 2013, through June 30, 2014.

15. In November 2014, respondent was nominated for the Faculty Service Award at the University of Iowa. His nomination was supported by numerous physicians.

16. Respondent received many patient thank-you notes and letters of appreciation from colleagues and residents while at the University of Iowa. He ranked very highly on the patient and resident satisfaction surveys.

17. Howard C. Miller, D.P.M., is a member of the credentials committee at Doctors Hospital in Manteca. He wrote a letter dated November 22, 2017, for the Board's consideration. Dr. Miller is aware of the discipline imposed by the Iowa Board. Dr. Miller reports that he has had the opportunity to interact with respondent on numerous occasions in the operating room and outside. He has not observed respondent to demonstrate any inappropriate behavior, or to exhibit behavior that could be considered outside of his professional boundaries. Respondent has asked Dr. Miller to serve as his mentor for support with implementing the PACE professional boundaries protection plan.

18. Respondent uses a chaperone with all female patients and will continue to do so.

19. Respondent is married and has a three-year-old child. His wife's family resides in the Central Valley. They attend church and respondent is a member of the Chamber of Commerce in Ripon, California.

### LEGAL CONCLUSIONS

1. The burden of proof in this matter is on the Board and the standard of proof is clear and convincing evidence. (*Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.)

2. Pursuant to Business and Professions Code sections 2305 and 141, the Board is authorized to impose discipline on a licensee who has been disciplined in another state, without a broad inquiry into the underlying facts. (*Marek v. Board of Podiatric Medicine* (1993) 16 Cal.App.4th 1089.)

3. Business and Professions Code section 2305 provides:

The revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter, shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.

Sexual harassment of a coworker would have been grounds for discipline in California. (Bus. & Prof. Code, § 2234.) Cause for discipline in California exists pursuant to Business and Professions Code section 2305. (Factual Findings 7 and 8.)

4. Whether discipline should be imposed in California may also be evaluated pursuant to Business and Professions Code section 141, subdivision (a), which provides:

For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

Sexual harassment in the workplace is substantially related to the practice of medicine and constitutes unprofessional conduct. Cause for discipline also exists pursuant to Business and Professions Code section 141. (Factual Findings 7 and 8.)

#### *Disciplinary Considerations*

5. The purpose of the Medical Practice Act<sup>1</sup> is to assure the high quality of medical practice; in other words to keep unqualified persons and those guilty of unprofessional conduct out of the medical profession. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 574.)

6. The Board has adopted guidelines to assist in the evaluation of physician discipline. (Manual of Model Disciplinary Orders and Disciplinary Guidelines, 12th Edition.) The guidelines state that, in out-of-state discipline cases, the minimum level of discipline should be the same as that for a similar violation in California; the maximum is revocation. The recommended level of discipline for unprofessional conduct ranges from a stayed revocation with five years of probation to revocation. In cases involving sexual misconduct with a patient, a seven-year probation is recommended.

Because he has fully complied with the Iowa Board's discipline, respondent suggests that a public reprimand is sufficient to protect the public; however, he is willing to comply with probation. Complainant recommends revocation, or in the alternative, revocation, stayed during a seven-year probationary period, with terms including a 60-day suspension, a psychiatric evaluation, a third party chaperone and a practice monitor.

---

<sup>1</sup> Business and Professions Code sections 2000 through 2521.

Respondent has had a very successful career, including his work at the University of Iowa, until his misconduct toward a coworker was discovered. There is no evidence of misconduct involving patient care and this appears to be an isolated incident. However, respondent's sexual harassment of an employee of the university is a very serious issue. The seriousness of respondent's misconduct warrants safeguards beyond that of a public reprimand.

The purpose of physician discipline is to protect the public and to aid in the rehabilitation of licensees. (Bus. & Prof. Code, § 2229.) Respondent recently underwent a psychiatric evaluation which was submitted to the Iowa Board prior to reaching a resolution of the underlying allegations. There is no evidence that respondent has attended psychotherapy to understand why his misconduct occurred, which may aid respondent in preventing a reoccurrence. Respondent has completed the PACE professional boundaries course and reports that he has learned from the course and will ensure that appropriate boundaries are maintained with staff and patients. However, he has not continued with the follow-up assessments offered by the course, which he needs to do. Respondent's rehabilitation will be aided by the support of a colleague, Dr. Miller, who has agreed to act as his mentor in supporting the implementation of respondent's boundary protection plan.

Considering the totality of the circumstances, respondent has established that he is rehabilitated to the extent that the public will be protected by revocation, stayed, during a seven-year probationary period with appropriate conditions. The evidence does not support the need for a practice monitor or another psychiatric evaluation. However, conditions of probation shall include the PACE professional boundaries course, follow-up assessments by the PACE course, psychotherapy and the use of a chaperone with female patients. Respondent's probation monitor may accept his April 2017 professional boundaries course as satisfying that probationary condition, as long as respondent complies with recommended follow-up assessments.

## ORDER

Physician's and Surgeon's Certificate No. A 106279 issued to respondent Foad Elahi, M.D. is revoked. However, revocation is stayed and respondent is placed on probation for seven years upon the following terms and conditions:

1. Education Course

Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at respondent's expense and shall be in

addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. Professionalism Program (Ethics Course)

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

3. Professional Boundaries Program

Within 60 calendar days from the effective date of this Decision, respondent shall enroll in a professional boundaries program approved in advance by the Board or its designee. Respondent, at the program's discretion, shall undergo and complete the program's assessment of respondent's competency, mental health and/or neuropsychological performance, and at minimum, a 24 hour program of interactive education and training in the area of boundaries, which takes into account data obtained from the assessment and from the Decision(s), Accusation(s) and any other information that the Board or its designee deems relevant. The program shall evaluate respondent at the end of the training and the program shall provide any data from the assessment and training as well as the results of the evaluation to the Board or its designee.



Failure to complete the entire program not later than six months after respondent's initial enrollment shall constitute a violation of probation unless the Board or its designee agrees in writing to a later time for completion. Based on respondent's performance in and evaluations from the assessment, education, and training, the program shall advise the Board or its designee of its recommendation(s) for additional education, training, psychotherapy and other measures necessary to ensure that respondent can practice medicine safely. Respondent shall comply with program recommendations. At the completion of the program, respondent shall submit to a final evaluation. The program shall provide the results of the evaluation to the Board or its designee. The professional boundaries program shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

The program has the authority to determine whether or not respondent successfully completed the program.

The professional boundaries course that respondent completed at PACE in April 2017 may be accepted towards the fulfillment of this condition.

Respondent shall participate in follow-up assessments as recommended by the program for as long as directed to do so by his probation monitor.

#### 4. Psychotherapy

Within 60 calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval the name and qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent.

Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require respondent to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of probation, respondent is

found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over respondent's license and the period of probation shall be extended until the Board determines that respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

5. Third Party Chaperone

During probation, respondent shall have a third party chaperone present while consulting, examining or treating female patients. Respondent shall, within 30 calendar days of the effective date of the Decision, submit to the Board or its designee for prior approval name(s) of persons who will act as the third party chaperone.

If respondent fails to obtain approval of a third party chaperone within 60 calendar days of the effective date of this Decision, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Respondent shall cease the practice of medicine until a chaperone is approved to provide monitoring responsibility.

Each third party chaperone shall sign (in ink or electronically) and date each patient medical record at the time the chaperone's services are provided. Each third party chaperone shall read the Decision(s) and the Accusation(s), and fully understand the role of the third party chaperone.

Respondent shall maintain a log of all patients seen for whom a third party chaperone is required. The log shall contain the: 1) patient initials, address and telephone number; 2) medical record number; and 3) date of service.

Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

Respondent is prohibited from terminating employment of a Board-approved third party chaperone solely because that person provided information as required to the Board or its designee.

If the third party chaperone resigns or is no longer available, respondent shall, within five calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name of the person(s) who will act as the third party chaperone. If respondent fails to obtain approval of a replacement chaperone within 30 calendar days of the resignation or unavailability of the chaperone, respondent shall receive a notification from

the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement chaperone is approved and assumes monitoring responsibility.

Respondent shall provide written notification to respondent's patients that a third party chaperone shall be present during all consultations, examination, or treatment with female patients. Respondent shall maintain in the patient's file a copy of the written notification, shall make the notification available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the notification for the entire term of probation.

6. Notification

Within seven days of the effective date of this Decision, respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent, at any other facility where respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

7. Supervision of Physician Assistants

During probation, respondent is prohibited from supervising physician assistants.

8. Obey All Laws

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

9. Quarterly Declarations

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

10. General Probation Requirements

Compliance with Probation Unit:

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

Address Changes:

Respondent shall, at all times, keep the Board informed of respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice:

Respondent shall not engage in the practice of medicine in respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal:

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California:

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event respondent should leave the State of California to reside or to practice respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

11. Interview with the Board or its Designee

Respondent shall be available in person upon request for interviews either at respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

12. Non-practice While on Probation

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and

within 15 calendar days of respondent's return to practice. Non-practice is defined as any period of time respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event respondent's period of non-practice while on probation exceeds 18 calendar months, respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

### 13. Completion of Probation

Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.

### 14. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be

extended until the matter is final.

15. License Surrender

Following the effective date of this Decision, if respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may request to surrender his certificate. The Board reserves the right to evaluate respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

16. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

DATED: December 26, 2017

DocuSigned by:

*Jill Schlichtmann*

D8897D949B464D9...

JILL SCHLICHTMANN  
Administrative Law Judge  
Office of Administrative Hearings

1 XAVIER BECERRA  
2 Attorney General of California  
3 JANE ZACK SIMON  
4 Supervising Deputy Attorney General  
5 CAROLYNE EVANS  
6 Deputy Attorney General  
7 State Bar No. 289206  
8 455 Golden Gate Avenue, Suite 11000  
9 San Francisco, CA 94102-7004  
10 Telephone: (415) 703-1211  
11 Facsimile: (415) 703-5480  
12 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO Aug. 14 20 17  
BY                      ANALYST

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 800-2017-030144

**Foad Elahi, M.D.**  
**1144 Norman Drive, Suite 104**  
**Manteca, CA 95336-5925**

**A C C U S A T I O N**

**Physician's and Surgeon's Certificate**  
**No. A106279,**

Respondent.

Complainant alleges:

**PARTIES**

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board or Medical Board).

2. On or about December 13, 2008, the Medical Board issued Physician's and Surgeon's Certificate Number A106279 to Foad Elahi, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2018, unless renewed.

///

## JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides, in part, that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, be publicly reprimanded, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2305 of the Code states:

The revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.

6. Section 141 of the Code states:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

///



1 **CAUSE FOR DISCIPLINE**

2 **(Discipline, Restriction, or Limitation Imposed by Another State)**

3 7. On or about April 14, 2017, the Iowa Board of Medicine and Respondent entered into  
4 a settlement agreement (Iowa Agreement). The Iowa Agreement provides that Respondent  
5 engaged in unprofessional conduct in that he violated appropriate professional boundaries in his  
6 interactions with a female coworker. Specifically, Respondent engaged in unwanted conduct of a  
7 sexual nature toward a coworker that included unwanted sexual comments and hugging, touching,  
8 fondling, and kissing. As a result of Respondent's unprofessional conduct, the Iowa Board  
9 required that Respondent complete a professional boundaries program and pay a civil penalty in  
10 the amount of two thousand five hundred dollars (\$2500.00).

11 8. Respondent's conduct as set forth in paragraph 7 above, and as described within the  
12 Iowa Agreement, attached as Exhibit A constitutes unprofessional conduct and cause for  
13 discipline pursuant to sections 2305 and/or 141 of the Code.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
16 and that following the hearing, the Medical Board of California issue a decision:

17 1. Revoking or suspending Physician's and Surgeon's Certificate Number A106279,  
18 issued to Foad Elahi, M.D.;

19 2. Revoking, suspending or denying approval of Foad Elahi, M.D.'s authority to  
20 supervise physician assistants and advanced practice nurses;

21 3. Ordering Foad Elahi, M.D., if placed on probation, to pay the Board the costs of  
22 probation monitoring; and

23 4. Taking such other and further action as deemed necessary and proper.

24  
25 DATED: AUGUST 14, 2017

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

# EXHIBIT A

**BEFORE THE IOWA BOARD OF MEDICINE**

\*\*\*\*\*

**IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST**

**FOAD ELAHI, M.D., RESPONDENT**

**FILE No. 02-2015-172**

\*\*\*\*\*

**SETTLEMENT AGREEMENT**

\*\*\*\*\*

COMES NOW the Iowa Board of Medicine (Board) and Foad Elahi, M.D., (Respondent), on April 14, 2017, and enter into this Settlement Agreement to resolve the pending contest case.

1. **IOWA MEDICAL LICENSE:** Respondent was issued Iowa medical license 39467 on April 20, 2011. Respondent's Iowa medical license went inactive due to nonrenewal on September 1, 2015.

2. **JURISDICTION:** The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

**STATEMENT OF THE MATTERS ASSERTED**

3. **PRACTICE SETTING:** Respondent is an Iowa-licensed physician who formerly practiced medicine in Iowa City, Iowa, and currently practices in Manteca, California.

4. **STATEMENT OF CHARGES:** On October 28, 2016, the Board filed charges against Respondent alleging that he engaged in sexual harassment and/or unethical or unprofessional conduct in violation of the laws and rules governing the practice of medicine when he engaged in unwanted conduct of a sexual nature toward a female co-worker in Iowa City, Iowa, between March and October 2014, including unwanted sexual comments and unwanted hugging; touching; fondling; and kissing.

#### **SETTLEMENT AGREEMENT**

5. **CITATION AND WARNING:** Respondent is hereby **CITED** for violating appropriate professional boundaries in his interactions with a female coworker in violation of the laws and rules governing the practice of medicine in Iowa. Respondent is hereby **WARNED** that engaging in such conduct in the future may result in further disciplinary action against his Iowa medical license.

6. **CIVIL PENALTY:** Respondent shall pay a **\$2,500 civil penalty** within twenty (20) days of the date of this order. The civil penalty shall be made payable to the Treasurer of Iowa, and mailed to the executive director of the Board. The civil penalty shall be deposited into the State General Fund.

7. **PROFESSIONAL BOUNDARIES PROGRAM:** Respondent shall successfully complete a Board-approved professional boundaries program within 90 days of the date of this Order. Respondent is responsible for all costs associated with the Board-approved professional boundaries program.

8. Respondent shall submit a written statement to the Board which demonstrates that he has shared a copy of this order with all medical licensing boards where Respondent holds a license, whether active or not, within thirty (30) days of the date of this order.

9. Respondent shall submit a written statement to the Board which demonstrates that Respondent has shared a copy of this order with all hospitals and clinics where Respondent practices medicine within thirty (30) days of the date of this order.

10. Respondent voluntarily submits this Order to the Board for consideration.

11. Respondent agrees that the State's counsel may present this Order to the Board for consideration.

12. By entering into this Order, Respondent understands that he may be represented by legal counsel in this matter, voluntarily waives any rights to a contested case hearing on the allegations in the Statement of Charges, and waives any objections to the terms of this Order.

13. This Order constitutes the resolution of a contested case proceeding.

14. Periods in which Respondent fails to comply with the terms of this Order shall not apply to the duration of this Order unless Respondent obtains prior written approval from the Board.

15. Respondent understands that the Board is required by Federal law to report this Order to the National Practitioner Data Bank.

16. This Order becomes a public record available for inspection and copying upon execution in accordance with the requirements of Iowa Code Chapters 17A, 22 and 272C.

17. This Order is subject to approval of the Board. If the Board fails to approve this Order it shall be of no force or effect to either party.

18. The Board's approval of this Order shall constitute a Final Order of the Board.



Foad Elahi, M.D., Respondent

Subscribed and sworn to before me on \_\_\_\_\_, 2017.

Notary Public, State of \_\_\_\_\_.

This Order is approved by the Board on April 14, 2017.



Diane L. Clark, R.N., M.A., Chair  
Iowa Board of Medicine  
400 SW 8<sup>th</sup> Street, Suite C  
Des Moines, Iowa 50309-4686

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Joaquin

Subscribed and sworn to (or affirmed) before me on this 18<sup>th</sup> day

of February, 2017, by Foad Elahi

\_\_\_\_\_ proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature Arielle Jaimee Hoffman (Seal)

